

Translation

PATENT COOPERATION TREATY

PCT/EP2003/009000



# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>OMNP025PWO</b>	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. <b>PCT/EP2003/009000</b>	International filing date (day/month/year) <b>13 August 2003 (13.08.2003)</b>	Priority date (day/month/year) <b>14 August 2002 (14.08.2002)</b>
International Patent Classification (IPC) or national classification and IPC <b>B65D 85/32</b>		
Applicant <b>OMNI-PAC EKCO GMBH &amp; CO. KG VERPACKUNGSMITTEL</b>		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>3</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand <b>10 March 2004 (10.03.2004)</b>	Date of completion of this report <b>08 December 2004 (08.12.2004)</b>
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages 1-16, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1-15, filed with the letter of 27 October 2004 (27.10.2004)
- ☒ the drawings:  
 pages 1-4, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-15	YES
	Claims		NO
Inventive step (IS)	Claims	1-15	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-15	YES
	Claims		NO

### 2. Citations and explanations

#### 1. Reference is made to the following document:

D1: DE 1 761 431

#### 2. D1, which is considered to represent the closest prior art in relation to the subject matter of claim 1, discloses a package from which the subject matter of claim 1 differs in that the depth of the trough does not exceed a maximum nesting height of the package.

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

The problem addressed by the present invention may therefore be considered that of enabling the package, despite the trough, to be stacked in opened state like a conventional egg package, even when the trough has been filled and closed.

The solution to this problem proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) because nesting with a closed trough is not mentioned by any prior art document.

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3. Claims 2-15 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

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Verpackungsmittel  
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**Patent Claims**

1. Foodstuffs packaging, in particular egg box, having a bottom part (2), which has a row of shaped depressions (21) for accommodating separate articles, in particular eggs, and having a shaped lid part (3), which is arranged for swing action on the bottom part (2) and, in the closed state, bounds an interior together with the bottom part, the lid part (3) having a trough (4) that is open in the upward direction and that has dimensions for accommodating an item, the lid part (3) having a covering means (7) that closes off the trough (4) in the upward direction, characterized in that the trough (4) bounding in interior has a depth, that is not greater than a maximum nesting height of the foodstuffs packaging, and that is designed together with the covering means (7) such that dropping out of the item is prevented.
2. Foodstuffs packaging according to Claim 1, characterized in that the covering means (7) is a sticker.
3. Foodstuffs packaging according to either of Claims 1 and 2, characterized in that the closing means (7) is arranged pulled around two opposing edges of the lid part (3).
4. Foodstuffs packaging according to one of the preceding claims, characterized in that the lid part (3) is provided with retaining depressions (36), which are

preferably connected to the trough (4).

5. Foodstuffs packaging according to one of the preceding claims, characterized in that the trough (4) and the retaining depressions (36) have approximately the same depth.
6. Foodstuffs packaging according to one of the preceding claims, characterized in that the retaining depressions (36) have a depth which is not made greater than a maximum nesting height of the foodstuffs packaging (1).
7. Foodstuffs packaging according to one of the preceding claims, characterized in that the retaining depressions (36) are offset laterally in relation to the shaped depressions (21).
8. Foodstuffs packaging according to one of the preceding claims, characterized in that the retaining depressions (36) have an indent (37) on their floor (38).
9. Foodstuffs packaging according to one of the preceding claims, characterized in that the bottom part (2) and the lid part (3) are provided with complementary clamping elevations (5) and clamping openings (6).
10. Foodstuffs packaging according to Claim 8, characterized in that the clamping elevations (5) and/or the clamping openings (6) are respectively no higher or deeper than a maximum nesting height of preferably 4 to 15 m, further preferably of 7 to 9 m.
11. Foodstuffs packaging according to Claim 8 or 9, characterized in that the clamping openings (6) are offset approximately centrally over two adjacent clamp-

ing elevations (5) in a row.

12. Foodstuffs packaging according to one of Claims 8 to 10, characterized in that the top edge (30) of the lid part (3) is configured such that its spacing from the nearest clamping opening (6) is, at most, equal to the free spacing between adjacent clamping elevations (5).
13. Foodstuffs packaging according to one of Claims 8 to 11, characterized in that the clamping elevations (5) and the clamping openings (6) have a conicity of  $2^{\circ}$  to  $15^{\circ}$ , preferably of  $7^{\circ}$  to  $9^{\circ}$ .
14. Foodstuffs packaging according to one of Claims 8 to 12, characterized in that at least six clamping elevations (5) arranged in a double row are provided.
15. Foodstuffs packaging according to one of Claims 8 to 13, characterized in that the retaining depressions (36) are designed as the clamping openings (6) and the shaped depressions are designed as clamping elevations (5).